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## CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

Defendants.

Date: TBA  
Time: TBA  
Place: Hon. Mariana Pfaezler,  
Courtroom 12

AND RELATED COUNTER AND  
THIRD-PARTY ACTIONS.

1 **I. INTRODUCTION**

2 Pursuant to Local Rule 7-19, Plaintiff Centocor Ortho Biotech, Inc.  
3 (“Centocor”) hereby applies to the Court *ex parte* for an order amending the case  
4 schedule to allow for sufficient time to take discovery in light of witness availability  
5 before the current deadline for fact discovery. Specifically, Plaintiff respectfully  
6 requests an order extending the deadline for fact discovery until August 13, 2010.

7 Pursuant to Local Rules 7-19 and 7-19.1, counsel for Plaintiff contacted  
8 counsel for Defendants to advise them of the substance of the instant *ex parte*  
9 application. Counsel indicated that Defendants would not oppose Plaintiff’s *ex*  
10 *parte* application. The contact information for Defendants’ counsel City of Hope  
11 Medical Center and Genentech, Inc. are as follows:

12 David I. Gindler  
13 Joseph M. Lipner  
14 Irell & Manella LLP  
15 1800 Avenue of the Stars, Suite 900  
16 Los Angeles, CA 90067-4276  
17 Tel: 310-277-1010  
18 Email: [jlipner@irell.com](mailto:jlipner@irell.com)  
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On March 11, 16, and 19, 2010, Matthew Pearson, counsel for Centocor, spoke  
via telephone with Marc Sernel, counsel for defendant Genentech. Mr. Pearson  
advised Mr. Sernel of, to the extent known, the date, time and substance of the

1 Application. After such notification, counsel represented that Genentech would not  
2 oppose this Application.

3 On March 19, 2010, Mr. Pearson spoke via electronic mail with David  
4 Gindler, counsel for defendant City of Hope. Mr. Pearson advised Mr. Gindler of, to  
5 the extent known, the date, time and substance of the Application. After such  
6 notification, counsel represented that City of Hope would not oppose this  
7 Application.

8 **II. GOOD CAUSE EXISTS TO GRANT PLAINTIFF'S REQUEST FOR**  
9 **CONTINUANCE OF THE CASE SCHEDULE**

10 An extension of the fact discovery deadline, which is currently April 30, 2010,  
11 is necessary because there remain numerous depositions to be taken of all parties'  
12 witnesses. One of these witnesses is Wendy Lee, who recently had a baby and thus  
13 has not been available and is not available for a deposition until the week after the  
14 close of fact discovery. Ms. Lee is an attorney who was involved in the prosecution  
15 of one of the patents in suit, and she is listed on Genentech's Initial Disclosures as  
16 likely having relevant information about that prosecution. Centocor expects her  
17 testimony to be highly relevant because the record reflects that she was a prosecuting  
18 attorney for Genentech who made statements to the U.S. Patent and Trademark  
19 Office that Centocor contends contradict earlier statements made by another  
20 Genentech attorney in a European proceeding involving the European counterpart to  
21 the Cabilly patent in suit.

22 Because of Ms. Lee's apparent role in the prosecution of the Cabilly patent  
23 family at issue, her deposition may lead to additional depositions of other persons  
24 similarly involved. In addition, expert witnesses may be asked to opine on her  
25 testimony and any follow-up discovery, and would need a reasonable opportunity to  
26 prepare those opinions. Additionally, certain Centocor experts are unavailable for a  
27 period of time over the summer months, making an extension of several months  
28 reasonably necessary to complete discovery.

Centocor therefore respectfully requests an extension of the deadline for fact discovery in this case through August 13, 2010. The following additional dates are proposed, corresponding to an August 13, 2010 fact discovery deadline.

Opening expert reports: August 30, 2010

Responsive expert reports: September 20, 2010

Expert discovery completed: October 11, 2010

Summary judgment motions: October 27, 2010

Oppositions to summary judgment: November 11, 2010

Replies in support of summary judgment: November 18, 2010

Summary judgment hearing: December 1, 2010

### **III. CONCLUSION**

For the foregoing reasons, Plaintiff respectfully requests that this Court continue the dates set forth in the Court's Scheduling Order as requested herein.

DATED: March 22, 2010

Respectfully submitted,

AKIN GUMP STRAUSS HAUER & FELD LLP

By: /s/ Dianne B. Elderkin

Dianne B. Elderkin

and

CONNOLLY BOVE LODGE & HUTZ LLP

By: /s/ Bruce G. Chapman

Bruce G. Chapman

Attorneys for Plaintiff and Counter-Defendant  
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Defendants Global Pharmaceutical Supply  
Group, LLC, Centocor Biologics, LLC and  
JOM Pharmaceutical Services, Inc.